

REQUEST FOR ADMISSION NO. 82

Manure from wildlife contributes phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 82

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, phosphorus compounds to the “environment of the Illinois River Watershed” as defined herein because phosphorus compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release phosphorus compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 83

Manure from wildlife contributes elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 83

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 84

Manure from wildlife contributes nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 84

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, nitrogen compounds to the “environment of the Illinois River Watershed” as defined herein because nitrogen compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release nitrogen compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 85

Manure from wildlife contributes elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO.85

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 86

Manure from wildlife contributes arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 86

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies this request because wildlife do not contribute, in the sense of adding or supplying, arsenic compounds to the “environment of the Illinois River Watershed” as defined herein because arsenic compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release arsenic compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 87

Manure from wildlife contributes elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 87

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 88

Manure from wildlife contributes zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 88

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, zinc compounds to the “environment of the Illinois River Watershed” as defined herein because zinc compounds released from wildlife already exist in the “environment” as

defined. The State admits that wildlife do release zinc compounds to a "portion thereof," the IRW.

REQUEST FOR ADMISSION NO. 89

Manure from wildlife contributes elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 89

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 90

Manure from wildlife contributes copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 90

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, copper compounds to the "environment of the Illinois River Watershed" as defined herein because copper compounds released from wildlife already exist in the "environment" as defined. The State admits that wildlife do release copper compounds to a "portion thereof," the IRW.

REQUEST FOR ADMISSION NO. 91

Manure from wildlife contributes hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 91

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 92

Manure from wildlife contributes bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 92

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 93

Each year more than 180,000 persons float the Illinois River by canoe, raft or kayak and more than 300,000 persons swim, fish, camp, hike, bird-watch, and hunt in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 93

The State objects to this request as a compound request that is overly burdensome, expensive, and vague and ambiguous. The request asks the State to admit or deny that 180,000 people float and 300,000 swim, fish, camp, hike, bird-watch, and hunt. This requires the State to respond to 7 different requests for admissions and determine whether 300,000 engage in each and every one of the activities listed, or whether the request is cumulative of all of the activities

listed. The State is unable to determine from information reasonably available to it whether to admit or deny this request, particularly as regards the Arkansas portion of the IRW.

REQUEST FOR ADMISSION NO. 94

Some of the human feces from tourists and recreationers within the Illinois River Watershed is released into the environment without treatment.

RESPONSE TO REQUEST NO. 94

The State objects to the Defendants definition of the term "human feces" and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 95

Human feces contribute elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 95

The State objects to the Defendants definition of the term "human feces" and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 96

Human feces contribute phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 96

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. The State objects to the Defendants

definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 97

Human feces contribute elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 97

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 98

Human feces contribute nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 98

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 99

Human feces contribute elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 99

The State objects to the Defendants definition of the term "human feces" and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 100

Human feces contribute arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 100

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. The State objects to the Defendants' definition of the term "human feces" and responds only on the basis as that term is commonly understood. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO.101

Human feces contribute elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 101

The State objects to the Defendants definition of the term "human feces" and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 102

Human feces contribute zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 102

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants’ definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 103

Human feces contribute elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 103

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 104

Human feces contribute copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 104

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly

understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 105

Human feces contribute hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 105

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. The State objects to the Defendants' definition of the term "human feces" and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 106

Human feces contribute bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 106

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. The State objects to the Defendants' definition of the term "human feces" and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 107

Several types of manufactured fertilizer ("commercial fertilizer") are bought and sold within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 107

Admitted.

REQUEST FOR ADMISSION NO. 108

Commercial fertilizer has been applied to lands in the Illinois River Watershed for more than 30 years.

RESPONSE TO REQUEST NO. 108

Admitted, to the extent that commercial fertilizer has been applied to some but not all lands in the IRW.

REQUEST FOR ADMISSION NO. 109

Commercial fertilizer contributes elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 109

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 110

Commercial fertilizer contributes phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 110

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains phosphorus compounds, as not all commercial fertilizers contain phosphorus compounds.

REQUEST FOR ADMISSION NO. 111

Commercial fertilizer contributes elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 111

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 112

Commercial fertilizer contributes nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 112

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains nitrogen compounds as not all commercial fertilizers contain nitrogen compounds.

REQUEST FOR ADMISSION NO. 113

Commercial fertilizer contributes elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 113

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.114

Commercial fertilizer contributes arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 114

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains arsenic compounds as not all commercial fertilizers contain arsenic compounds.

REQUEST FOR ADMISSION NO. 115

Commercial fertilizer contributes elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 115

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO 116.

Commercial fertilizer contributes zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 116

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains zinc compounds as not all commercial fertilizers contain zinc compounds.

REQUEST FOR ADMISSION NO.117

Commercial fertilizer contributes elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 117

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 118

Commercial fertilizer contributes copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 118

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains copper compounds as not all commercial fertilizers contain copper compounds.

REQUEST FOR ADMISSION NO. 119

Commercial fertilizer contributes hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 119

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. Subject to and without waiver of this

objection, the State admits but only to the extent that the Commercial fertilizer contains hormones.

REQUEST FOR ADMISSION NO. 120

The State of Oklahoma does not limit by regulation the amount of commercial fertilizer that can be lawfully applied to lands within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 120

Denied. The State does prohibit the application of commercial fertilizer generally by prohibiting the creation of a nuisance or polluting the waters of the State.

REQUEST FOR ADMISSION NO. 121

The extent to which, if at all, constituents from poultry litter can be transported by run-off to Oklahoma's scenic rivers will vary depending on the terrain and slopes of the sites of litter application, the proximity to the scenic rivers and conditions of the intermediate zones between the sites and the waters.

RESPONSE TO REQUEST NO. 121

Admitted to the extent that there are numerous other factors which affect the extent to which poultry litter can be transported by run-off to Oklahoma's scenic rivers.

REQUEST FOR ADMISSION NO. 122

Poultry houses are not point sources of elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, or bacteria present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 122

This request is being responded to in accordance with and subject to objection number 8. Admitted, except for those poultry houses which are registered as CAFOs and considered as point sources under the Clean Water Act or Oklahoma law.

REQUEST FOR ADMISSION NO 123.

Point sources contribute more elemental phosphorus to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 123

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 124

Point sources contribute more phosphorus compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 124

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 125

Point sources contribute more elemental nitrogen to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 125

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 126

Point sources contribute more nitrogen compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 126

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 127

Point sources contribute more elemental arsenic to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 127

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 128

Point sources contribute more arsenic compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 128

The State has made a reasonable inquiry and that the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 129

Point sources contribute more elemental zinc to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 129

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 130

Point sources contribute more zinc compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 130

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 131

Point sources contribute more elemental copper to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 131

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 132

Point sources contribute more copper compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 132

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 133

Point sources contribute more hormones to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 133

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 134

Point sources contribute more bacteria to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 134

Denied.

REQUEST FOR ADMISSION NO. 135

Sources other than poultry litter contribute at least 50% of the elemental phosphorus that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 135

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 136

Sources other than poultry litter contribute at least 50% of the phosphorus compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 136

Denied.

REQUEST FOR ADMISSION NO. 137

Sources other than poultry litter contribute at least 50% of the elemental nitrogen that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 137

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 138

Sources other than poultry litter contribute at least 50% of nitrogen compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 138

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 139

Sources other than poultry litter contribute at least 50% of the elemental arsenic that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 139

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 140

Sources other than poultry litter contribute at least 50% of the arsenic compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 140

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 141

Sources other than poultry litter contribute at least 50% of the elemental zinc that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 141

This request is being responded to in accordance with and subject to objection number 8. The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 142

Sources other than poultry litter contribute at least 50% of the zinc compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 142

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 143

Sources other than poultry litter contribute at least 50% of the elemental copper that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 143

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 144

Sources other than poultry litter contribute at least 50% of the copper compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 144

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 145

Sources other than poultry litter contribute at least 50% of the hormones that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 145

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 146

Sources other than poultry litter contribute at least 50% of the bacteria that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 146

Denied.

REQUEST FOR ADMISSION NO. 147

Constituents from poultry litter have not come to be located on every parcel of land in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 147

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the phrase "come to be located on every parcel" is not defined. Subject to and without waiver of this objection, the State denies. The constituents of poultry litter have been found throughout the IRW.

REQUEST FOR ADMISSION NO. 148

When a river is impounded, the impounded water collects nutrients and sediments that are flowing in the water.

RESPONSE TO REQUEST NO. 148

The State objects that this request is vague and ambiguous. The request as asked is incomprehensible.

REQUEST FOR ADMISSION NO. 149

Impounded rivers naturally eutrophicate over time.

RESPONSE TO REQUEST NO. 149

The State objects to the request because it is ambiguous as the term “naturally eutrophicate” and the word “time” are vague and indefinite. They do not address the period of time for the impoundment, nor is there a definition of “natural” or “eutrophicate.” The State therefore cannot admit or deny the Defendants’ request. Whether an impounded river becomes “eutrophied” depends on the type and concentrations of substances (other than water) that are in the river, the time period over which the river is impounded, and the type of impoundment.

V. PLAINTIFF’S ALLEGATION THAT DEFENDANTS ARE LIABLE FOR THE ACTIONS OF POULTRY PRODUCERS

REQUEST FOR ADMISSION NO. 150

One or more poultry producers who perform services for the Defendants in this case does so pursuant to written contracts.

RESPONSE TO REQUEST NO. 150

Admitted.

REQUEST FOR ADMISSION NO. 151

Plaintiffs do not contend that the contracts between poultry producers and Defendants are invalid.

RESPONSE TO REQUEST NO. 151

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "invalid" as it is vague. The State further objects to this request as vague and ambiguous as it does not specify which contracts with which integrators, what types of contracts and the specific terms of the contract intended to be addressed by the request. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 152

The contracts between poultry producers and the Defendants do not call for the performance of any illegal activity.

RESPONSE TO REQUEST NO. 152

The State objects to this request as vague and ambiguous as it does not specify which contracts with which integrators, what types of contracts and the specific terms of the contract intended to be addressed by the request. Subject to and without waiver of this objection, the State denies. Illegal activity inevitably and foreseeably results from the poultry operations carried out pursuant to some contracts.

REQUEST FOR ADMISSION NO. 153

Plaintiffs have no evidence how much poultry litter from poultry producers who grow poultry under contract with each defendant has been applied to pastures in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 153

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiving this objection, the State denies.

REQUEST FOR ADMISSION NO. 154

Plaintiffs have no evidence of how much elemental phosphorus in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO.154

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 155

Plaintiffs have no evidence of how much phosphorus compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 155

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.156

Plaintiffs have no evidence of how much elemental nitrogen in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 156

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 157

Plaintiffs have no evidence of how much nitrogen compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 157

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 158

Plaintiffs have no evidence of how much elemental arsenic in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 158

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 159

Plaintiffs have no evidence of how much arsenic compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 159

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 160

Plaintiffs have no evidence of how much elemental zinc in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 160

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 161

Plaintiffs have no evidence of how much zinc compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 161

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 162

Plaintiffs have no evidence of how much elemental copper in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 162

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 163

Plaintiffs have no evidence of how much copper compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 163

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 164

Plaintiffs have no evidence of how much hormones in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 164

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 165

Plaintiffs have no evidence of how much bacteria in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 165

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

**VI. PLAINTIFFS' STATUS AS CONTRIBUTORS OR ARRANGERS OF
ALLEGED HAZARDOUS SUBSTANCES**

REQUEST FOR ADMISSION NO. 166

Plaintiffs own or operate sewage lagoons in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 166

The State objects to the term "Plaintiffs", as there is one Plaintiff, the State of Oklahoma.

Subject to and without waiving this objection, the State admits.

REQUEST FOR ADMISSION NO. 167

Plaintiffs own or operate underground storage tanks in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 167

The State objects to the term "Plaintiffs", as there is one Plaintiff, the State of Oklahoma.

The State further objects that this request is irrelevant to the claims and defenses of any party in this case.

REQUEST FOR ADMISSION NO. 168

Poultry litter has been used as fertilizer on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 168

Denied.

REQUEST FOR ADMISSION NO. 169

Plaintiffs have land-applied poultry litter in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 169

The State objects to the term "Plaintiff's" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits, only to that extent

that it has been done for educational and scientific purposes at demonstration sites in the Watershed.

REQUEST FOR ADMISSION NO. 170

Herbicides have been used on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 170

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits that herbicides have been used on some but not all lands owned by the State of Oklahoma.

REQUEST FOR ADMISSION NO. 171

Plaintiffs have applied herbicides in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 171

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits that herbicides have been used on some but not all lands owned by the State of Oklahoma.

REQUEST FOR ADMISSION NO. 172

Pesticides have been used on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 172

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits that pesticides have been used on some but not all lands owned by the State.

REQUEST FOR ADMISSION NO. 173

Plaintiffs have applied pesticides in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 173

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits applying pesticides to some, but not all, of the lands of the IRW.

REQUEST FOR ADMISSION NO. 174

Lands owned by the State of Oklahoma in the Illinois River Watershed have been used to raise cattle.

RESPONSE TO REQUEST NO. 174

The State objects to this request as overly broad, oppressive, and unduly burdensome because it is not reasonably limited or specific as to time. Subject to and without waiver of this objection, the State admits that grazing leases were granted on the Cherokee Wildlife Management Area approximately over twenty-five years ago, but no grazing leases currently exist in the Illinois River Watershed and have not for at least twenty-five years.

REQUEST FOR ADMISSION NO. 175

Plaintiffs have purchased commercial fertilizer.

RESPONSE TO REQUEST NO. 175

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 176

Plaintiffs have applied commercial fertilizer to land within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 176

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits to applying commercial fertilizer on some but not all lands in the IRW.

REQUEST FOR ADMISSION NO. 177

The State of Oklahoma has issued permits allowing for the discharge of one or more of the following substances into the waters of the Illinois River Watershed: elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, and bacteria.

RESPONSE TO REQUEST NO. 177

This request is being responded to in accordance with and subject to objection number 8. The State denies that it has issued permits for the discharge of elemental phosphorus, elemental nitrogen, elemental arsenic, elemental zinc, hormones and elemental copper. The State admits to the extent that it that has issued permits to regulate the discharge to achieve compliance with Oklahoma water quality standards for phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, copper compounds and bacteria.

REQUEST FOR ADMISSION NO. 178

The State of Oklahoma has issued permits or promulgated regulations allowing the land application in the Illinois River Watershed of biosolids containing one or more of the following substances: elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, and bacteria.

RESPONSE TO REQUEST NO. 178

This request is being responded to in accordance with and subject to objection number 8. The State denies that it has issued permits or promulgated regulations allowing for the land application of biosolids containing elemental phosphorus, elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper in the Illinois River Watershed because these constituents

are not anticipated to be present in biosolids. The State admits that it has in limited circumstances issued permits and promulgated regulations allowing land application of biosolids containing phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, copper compounds, hormones and bacteria in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 179

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed contains one or more septic systems.

RESPONSE TO REQUEST NO. 179

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 180

Ephemeral (seasonal) streams run through one or more parcels of real property owned by Plaintiffs within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 180

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 181

Storm water runoff occurs from one or more parcels of real property owned by Plaintiffs within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 181

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the use of the phrase "storm water runoff" because it is not defined. Subject to and without waving these objections, the State admits that storm water runoff which is defined as "rain water runoff, snow melt runoff, and surface runoff and drainage"

occurs from one or more parcels of real property owned by the State in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 182

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental phosphorus present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 182

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State denies.

REQUEST FOR ADMISSION NO. 183

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of phosphorus compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 183

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State admits phosphorus compounds are present on real property owned by the State within the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 184

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental nitrogen present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 184

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State denies.

REQUEST FOR ADMISSION NO. 185

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of nitrogen compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 185

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection the State admits that nitrogen compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 186

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental arsenic present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 186

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits Denies.

REQUEST FOR ADMISSION NO. 187

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of arsenic compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 187

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection the State admits that arsenic compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 188

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental copper present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 188

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 189

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of copper compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 189

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection, the State admits that copper compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 190

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental zinc present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 190

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 191

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of zinc compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 191

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection the State admits that zinc compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 192

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of hormones present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 192

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. Subject to and without waiving this objection, the State admits that hormones are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 193

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of bacteria present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 193

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. Subject to and without waiving this objection the State admits that bacteria are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 194

Plaintiffs have authority to conduct inspections, and do conduct inspections of farms that land apply poultry litter as a soil amendment and fertilizer.

RESPONSE TO REQUEST NO. 194

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 195

Construction, dredging or moving rocks or boulders within a streambed of the Illinois River Watershed can add sediment to the stream.

RESPONSE TO REQUEST NO. 195

Admitted.

REQUEST FOR ADMISSION NO. 196

Plaintiffs have engaged in construction or dredging within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 196

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 197

Plaintiffs have moved rocks or boulders within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 197

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits

REQUEST FOR ADMISSION NO. 198

Plaintiffs have issued one or more permits for construction or dredging within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 198

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 199

Plaintiffs have issued permits for moving rocks or boulders within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 199

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 200

Plaintiffs have constructed and maintained unpaved roads in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 200

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 201

Plaintiffs' construction and maintenance of unpaved roads has caused increased sediment in the streams of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 201

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "increased" as it is vague and ambiguous requiring an admission regardless of the how de minimus the increased sediment might be. Subject to and without waiving this objection, the State admits.

REQUEST FOR ADMISSION NO.202

Sediment from dirt or gravel roads contributes elemental phosphorous to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 202

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 203

Sediment from dirt or gravel roads contributes phosphorous compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 203

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.204

Sediment from dirt or gravel roads contributes elemental nitrogen to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 204

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.205

Sediment from dirt or gravel roads contributes nitrogen compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 205

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.206

Sediment from dirt or gravel roads contributes elemental arsenic to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 206

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 207

Sediment from dirt or gravel roads contributes arsenic compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 207

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 208

Sediment from dirt or gravel roads contributes elemental zinc to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 208

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 209

Sediment from dirt or gravel roads contributes zinc compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 209

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.210

Sediment from dirt or gravel roads contributes elemental copper to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 210

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 211

Sediment from dirt or gravel roads contributes copper compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 211

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 212

Sediment from dirt or gravel roads contributes hormones to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 212

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount or origin. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO 213

Sediment from dirt or gravel roads contributes bacteria to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 213

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount or origin. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 214

Plaintiffs have established .037mg/l as the limit for total phosphorus in designated scenic rivers within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 214

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State further objects to the request as vague and ambiguous because the terms "established" and "limit" are not defined. Subject to and without waiving these objections, the State admits that Oklahoma Water Resources Board has promulgated a water quality standard applicable to scenic rivers in the Illinois River Watershed which provides that "[t]he thirty (30) day geometric mean total phosphorus concentration in waters designated "Scenic River" in Appendix A of this Chapter shall not exceed 0.037 mg/L."

REQUEST FOR ADMISSION NO. 215

Even if no poultry litter were land applied within the Illinois River Watershed next year, Oklahoma's criterion of .037 mg/l for total phosphorus in designated scenic rivers could not be met without reductions in contributions from other sources.

RESPONSE TO REQUEST NO. 215

The State objects to this request because it is not limited in scope to the Illinois River Watershed and is vague and ambiguous because it does set forth the time frame for the hypothetical, identify the other sources, address the phosphorus releases from the Defendants' historical waste disposal practices, and does not define what is meant by the term "met" with regard to the phosphorus criterion.

Subject to and without waiving these objections, the State admits that, even if the Defendants stop disposing of poultry waste on land in the Illinois River next year, the Defendants' historic waste disposal practices would continue to release a substantial amount of phosphorus to the designated scenic rivers in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 216

Point source concentrations of total phosphorus would have to be reduced to an average of 0.25 mg/l to support the State of Oklahoma's numerical water quality standard for total phosphorus of 0.037 mg/l in Oklahoma's Scenic Rivers, regardless of poultry litter application rates.

RESPONSE TO REQUEST NO. 216

Denied.

REQUEST FOR ADMISSION NO. 217

The damages and injunctive relief Plaintiffs seek in this case will place a substantial burden on Defendants.

RESPONSE TO REQUEST NO.217

Denied.

VII. PLAINTIFF'S ALLEGATIONS OF DAMAGES AND REQUEST FOR AN INJUNCTION

REQUEST FOR ADMISSION NO. 218

Plaintiffs have not conducted a Natural Resource Damage Assessment pursuant to 43 C.F.R. Part 11.

RESPONSE TO REQUEST NO. 218

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to this request as to the phrase "have not conducted" is vague and ambiguous. Interpreting the phrase to mean "has not completed", and subject to and without waiver, the State admits.

REQUEST FOR ADMISSION NO. 219

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental phosphorus in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 219

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 220

Plaintiffs have not conducted any removal activities designed to reduce the levels of phosphorus compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 220

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 221

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental nitrogen in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 221

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of this objection, the State Admits.

REQUEST FOR ADMISSION NO. 222

Plaintiffs have not conducted any removal activities designed to reduce the levels of nitrogen compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 222

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 223

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental arsenic in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 223

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 224

Plaintiffs have not conducted any removal activities designed to reduce the levels of arsenic compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 224

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 225

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental zinc in the Illinois River Watershed.

RESPONSE TO REQUEST NO.225

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 226

Plaintiffs have not conducted any removal activities designed to reduce the levels of zinc compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 226

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8.

Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 227

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental copper in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 227

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 228

Plaintiffs have not conducted any removal activities designed to reduce the levels of copper compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 228

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 229

Plaintiffs have not conducted any removal activities designed to reduce the levels of hormones in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 229

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 230

Plaintiffs have not conducted any removal activities designed to reduce the levels of bacteria in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 230

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 231

Plaintiffs have not incurred any costs for hauling poultry litter out of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 231

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 232

Plaintiffs have not incurred any costs associated with managing and disposing of poultry litter within or outside of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 232

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

VIII. DEFENSES RELATING TO THE USE OF POULTRY LITTER AS A FERTILIZER AND SOIL AMENDMENT

REQUEST FOR ADMISSION NO. 233

Poultry litter has been used as a fertilizer or soil amendment in the Illinois River Watershed for more than fifty years.

RESPONSE TO REQUEST NO. 233

Admitted, to the extent in limited instances poultry litter has been used as a fertilizer or soil amendment at various times during the last fifty years. The State denies that poultry litter has been land applied as a fertilizer or soil amendment predominantly during that period of time.

REQUEST FOR ADMISSION NO. 234

The State of Oklahoma has issued animal waste management plans to poultry producers specifying the location and amounts for the land application of poultry litter in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 234

The State objects to the term "issued" as the State does not issue animal waste management plans. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 235

Animal waste management plans issued by the State of Oklahoma to poultry producers permit or authorize the application of poultry litter to lands in the Illinois River Watershed when soil tests show the soil of the relevant parcel of land contains total P of up to 300 lbs per acre.

RESPONSE TO REQUEST NO. 235

The State objects to the term "issued" as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

REQUEST FOR ADMISSION NO. 236

Animal waste management plans issued by the State of Oklahoma to poultry producers do not limit or restrict the land application of poultry litter in the Illinois River Watershed to the agronomic needs of plants or crops for elemental phosphorus or phosphorus compounds.

RESPONSE TO REQUEST NO. 236

The State objects to the term “issued” as the State does not issue animal waste management plans. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies.

REQUEST FOR ADMISSION NO.237

Plaintiffs have no evidence that animal waste management plans issued by the State of Oklahoma to poultry producers have been violated by the application of poultry litter to lands in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 237

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

REQUEST FOR ADMISSION NO. 238

Plaintiffs are not seeking any relief in this case that would prohibit the normal agricultural use of animal manure as fertilizer.

RESPONSE TO REQUEST NO. 238

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

IX. PLAINTIFF’S CLAIM OF AN “IMMINENT AND SUBSTANTIAL ENDANGERMENT” IN THE ILLINOIS RIVER WATERSHED

REQUEST FOR ADMISSION NO. 239

There is no imminent and substantial endangerment to health in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 239

Denied

REQUEST FOR ADMISSION NO. 240

There is no imminent and substantial endangerment to health in the Illinois River Watershed resulting from the land application of poultry litter.

RESPONSE TO REQUEST NO. 240

Denied.

REQUEST FOR ADMISSION NO. 241

There is no imminent and substantial endangerment to the environment in the Illinois River Watershed resulting from the land application of poultry litter.

RESPONSE TO REQUEST NO. 241

Denied.

REQUEST FOR ADMISSION NO. 242

Within the last 10 years, the State of Oklahoma has never advised people not to swim in any waters in the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 242

Denied.

REQUEST FOR ADMISSION NO. 243

Within the last 10 years, the State of Oklahoma has never advised people not to drink water which comes from the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 243

Denied.

REQUEST FOR ADMISSION NO. 244

Within the last 10 years, the State of Oklahoma has never advised people not to consume water supplied by the rural or municipal water treatment facilities which draw drinking water from the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 244

Denied.

REQUEST FOR ADMISSION NO. 245

Within the last 10 years, the State of Oklahoma has never advised people not to eat fish which come from the waters in the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 245

Denied.

X. COMPLIANCE WITH STATE LAW AS A DEFENSE TO PLAINTIFF'S CLAIMS

REQUEST FOR ADMISSION NO. 246

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 27A, § 2-6-105.

RESPONSE TO REQUEST NO. 246

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 247

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 2, § 2-18.1.

RESPONSE TO REQUEST NO. 247

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 248

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 2, § 10-9.7.

RESPONSE TO REQUEST NO. 248

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 249

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of OAC 35: 17-5-5.

RESPONSE TO REQUEST NO. 249

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 250

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of OAC 35:17-3-14.

RESPONSE TO REQUEST NO. 250

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

DOCUMENT REQUEST

For each of the above Requests that you deny, produce any and all documents in your possession, custody or control that support your statement of denial, together with a list describing to which Request(s) the documents pertain. If you have already produced documents covered by this document request to one or more of the Defendants, you need not re-produce those documents but may instead include a statement identifying by Bates number and description the specific documents previously produced and to which Request(s) those documents pertain.

RESPONSE TO DOCUMENT REQUEST

The State objects to producing documents in its possession, custody or control that support our statements of denial with a list describing to which Request the documents pertain to, by Bates number or otherwise.. Doing so would be unreasonably burdensome and expensive to the State. There is nothing in the Federal Rules which requires the State to do so. Documents that relate to the State's denial have already been produced in the State's agencies productions as they are kept in the usual course of business. Any documents not already produced that relate to these denials will be produced as they are kept in the usual course of business at further agency productions.

Discovery is ongoing, accordingly the State reserves all rights under the Federal Rules to supplement, amend, revise, or withdraw any response contained herein.

Respectfully Submitted,

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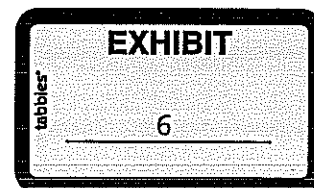
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:05-cv-00329-TCK-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO
SEPARATE DEFENDANT CARGILL TURKEY PRODUCTION LLC.'S
AMENDED FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION
PROPOUNDED TO PLAINTIFFS

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege and/or the work product doctrine.
2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of defendant, is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to defendant as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for defendant as it is for the State.
3. The State objects to these discovery requests to the extent that they are overly broad, oppressive, unduly burdensome and expensive to answer. Providing answers to such discovery requests would needlessly and improperly burden the State.
4. The State objects to these discovery requests to the extent that they improperly seek identification of "all" items or "each" item of responsive information or to state "with



particularity” the basis for each and every contention of the State. Such discovery requests are thus overly broad and unduly burdensome. It may be impossible to locate “all” items or “each” item of responsive information to such discovery requests, or at this stage of the case to state “with particularity” each and every basis for each contention. It is improper by interrogatory to require the State to provide a narrative account of its case.

5. The State objects to the submission of contention interrogatories because such interrogatories are premature. Discovery is ongoing. The State requested documents from the Cargill entities on July 10, 2006, and received them only on December 5, 2006. The State has not yet had the time to review and analyze the documents produced. The State is engaged in determining the particular roles, acts and omissions of the Cargill defendants pertinent to the allegations of the First Amended Complaint. The State objects to supplying more than the principal and material facts supporting its allegations at this point. Pursuant to Fed.R.Civ.P. 33(c) full responses to all contention interrogatories should be deferred until discovery is completed.

6. The State objects to the extent that discovery sought is unreasonably cumulative or duplicative.

7. The State objects to these discovery requests to the extent that they do not state with the required degree of specificity and particularity what information is being sought. As such, such discovery requests are vague, indefinite, ambiguous and not susceptible to easily discernible meaning.

8. The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties resources, and the importance of the proposed discovery in

resolving the issues.

9. The State objects to these discovery requests to the extent that they improperly attempt to impose obligations on the State other than those imposed or authorized by the Federal Rules of Civil Procedure.

10. The State objects to the definitions of these discovery requests to the extent that they improperly attempt to alter the plain meaning of certain words, and expressly the State objects to the definition of "You" as including any municipality, employee, attorney, agent or other representative of the State.

11. By submitting these responses, the State does not acknowledge that the requested information is necessarily relevant or admissible. The State Expressly reserves the right to object to further discovery into the subject matter of any information provided and to the introduction of such information into evidence. The State also reserves its right to supplement these responses as appropriate or as required by the Federal Rules of Civil Procedure.

Without waiving the foregoing objections, but hereby incorporating each of them by reference in the specific responses as if fully set forth therein, and subject thereto, the State further states and alleges as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Please identify each tract of real property situated within the Illinois River Watershed currently owned, managed or controlled by the State, formerly owned, managed or controlled by the State, or real property in which the State owns, managed or controls any legal or equitable interest (including but not limited to, ownership in fee, surface ownership, mineral ownership, lease or license). For each tract of real property identified, please provide the full legal description, address, the specific time periods that the State held the stated

interest, and the nature of the interest held by the State.

RESPONSE TO INTERROGATORY NO. 1: The State objects to this interrogatory on the grounds that it is overly broad, oppressive, unduly burdensome and expensive to answer, especially to the extent that it asks about each tract of real property owned by the State. Providing answers to such discovery requests would needlessly and improperly burden the State. In addition, this interrogatory is irrelevant, vague and ambiguous.

Subject to and without waiving its general or specific objections, the State has no readily available source of information from which to derive the answer to this Interrogatory. Pursuant to Fed.R.Civ.P. 33(d), the answer to this interrogatory may be found in the land records of the County Clerks of those counties of Oklahoma that include some portion of the IRW and on the websites of various state agencies, such as the Oklahoma Department of Wildlife Conservation. The burden of determining the answer to this interrogatory is substantially the same for Defendant Cargill Turkey, as it is for the State of Oklahoma, and thus the Defendant may search the land records. The pertinent land records are available for inspection and copying during normal business hours of the respective County Clerks' offices.

Subject to and without waiving its general or specific objections, the State refers Defendant to its initial disclosures to Fed. R. Civ. P. 26(a)(1)(A). In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to Defendants in onsite agency productions. In addition, please see the Response to Tyson Foods Interrogatory No. 3 and the response to Cargill Turkey Request For Production No. 17.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed.

R. Civ. P. 26(e).

INTERROGATORY NO. 2: For each specific tract of real property identified in response to the foregoing Interrogatory, please identify the specific uses for and activities that have been conducted on each tract or real property during the period You owned, managed or controlled the interest.

RESPONSE TO INTERROGATORY NO. 2: The State objects to this interrogatory on the grounds that it is irrelevant, vague, ambiguous, overly broad, oppressive, unduly burdensome and expensive to answer, especially to the extent that it asks about each tract of real property owned by the State. Providing answers to such discovery requests would needlessly and improperly burden the State. Further, this interrogatory is irrelevant.

Further, without waiving its objections, the State states that the type of properties the State owns includes, but not limited to, universities and associated properties, various State agency offices and associated properties, state parks and associated properties, wildlife management areas, and public access areas. The uses of these properties are typical of universities, state agency office, state parks, wildlife management and public access areas. In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to Defendants in onsite agency productions.

INTERROGATORY NO. 3: Please state the date (or year, if an exact date is not known) when You first became aware that poultry industry operations might be a potential source of:

- a. phosphorous / phosphorus compounds;
- b. nitrogen / nitrogen compounds;
- c. arsenic / arsenic compounds;

- d. zinc / zinc compounds;
- e. copper / copper compounds;
- f. hormones; and/or
- g. microbial pathogens

in the Illinois River Watershed and discuss with particularity the facts, witnesses and/or documents leading to Your awareness.

RESPONSE TO INTERROGATORY NO. 3: The State objects to this interrogatory on the grounds that it improperly uses the defined term "You." Moreover, it is overly broad, oppressive, unduly burdensome and expensive to answer, especially to the extent that it asks the exact date or year that the State, a legal entity with more than one hundred component agencies, boards, and commissions and tens of thousands of employees became "aware that poultry industry operations might be a potential source of" phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, copper/copper compounds, hormones, and or microbial pathogens. Further, this interrogatory is irrelevant and not likely to lead to admissible evidence.

Without waving any of the forgoing objections, the State is not able to state the exact year or date when the State first became aware that any of the above listed contaminants came from poultry industry operations. However, the Governor's Task Force on Animal Waste was formed in 1997 to address issues dealing with pollution from Animal Feeding Operations. Further, the Oklahoma Registered Poultry Feeding Operations Act became effective in 1998 and the State has been negotiating with the Poultry Industry since at least 2001 to reduce the continuing degradation of the IRW from poultry Operations. In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and

whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions. Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 4: Please state that date (or year, if an exact date is not known) when You became aware that elevated levels of the Pollutants or Contaminants alleged in Your Complaint may be the cause of perceived environmental harm (including, but not limited to, impaired use and enjoyment, algae blooms, hypolimnetic anoxia, eutrophication, degradation in water quality and/or sediments, injury to biota, injury to terrestrial, aquatic and sediment species and/or human injury) in the Illinois River Watershed and discuss with particularity the facts, witnesses and/or documents leading to Your awareness.

RESPONSE TO INTERROGATORY NO. 4: The State objects to this interrogatory on the grounds that it improperly uses the defined term "You." Moreover, it is overly broad, oppressive, unduly burdensome and expensive to answer, especially to the extent that it asks the exact date or year that the State became aware that elevated levels of the Pollutants or Contaminants alleged in the Complaint are the cause of environmental harm (including, but not limited to, impaired use and enjoyment, algae blooms, hypolimnetic anoxia, eutrophication, degradation in water quality and/or sediments, injury to biota, injury to terrestrial, aquatic and sediment species and/or human injury). In addition, the State objects to this Interrogatory as calling for its work product and trial preparation materials.

Without waiving any of the forgoing objections the State refers Cargill to the State's response in Interrogatory No. 3.

In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information

sought in this Interrogatory, and whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 5: Please describe all steps (including, but not limited to establishing water quality standards, negotiations and discussions with potential contributors, legal actions, threatened legal actions, administrative proceedings, threatened administrative proceedings, regulations or agency rule-making) You or the agencies of the State of Oklahoma have taken to address and/or "deal with" other sources of the Pollutants or Contaminants alleged in Your Complaint. See Transcript from March 23, 2006 hearing Pp. 8-10, and in particular P. 9 "That is not to say that there aren't other sources of problems but the other sources of problems have been addressed and have been dealt with by agencies of government in the State of Oklahoma."

RESPONSE TO INTERROGATORY NO. 5: The State incorporates its general objections set forth herein. The State further objects to this interrogatory on the grounds that it improperly uses the defined term "You," improperly seeks identification of "every" or "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "every" or "all" items of responsive information to this interrogatory. In addition, the State objects to this Interrogatory as calling for its work product and trial preparation materials.

Subject to and without waiving any of its general or specific objections, the State has, without limitation: (1) established a comprehensive environmental regulatory system as set out in

27A O.S. 1-3-101, assigning environmental responsibility to the various state environmental agencies; (2) in addition to retaining common law remedies, for each agency provided statutory authority for addressing environmental injuries within its area of jurisdiction (see, e.g., 2 O.S. 1-1 et seq. (Oklahoma Agricultural Code) and 27A 2-1-101 (Oklahoma Environmental Quality Code); and (3) carried into effect such statutory authority through rulemaking, permitting, inspection, and enforcement.

In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions. Potential responsive, non-privileged documents, include permits, notices of violation, administrative orders, complaints, investigative reports, enforcement files, and settlement agreements, if such documents exist in the custody of particular agencies.

INTERROGATORY NO. 6: For each step identified in response to Interrogatory No. 5, please state the reduction in each Pollutant or Contaminant that resulted.

RESPONSE TO INTERROGATORY NO. 6: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further objects to this interrogatory on the grounds that it improperly seeks identification of "every" or "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "every" or "all" items of responsive information to this interrogatory.

Subject to and without waiving any of its general or specific objections, Defendant is referred to the coordinated Watershed Restoration and Protection Strategy for Oklahoma's Impaired Scenic Rivers, 2005 update, (SB 972 report) a copy of which is attached hereto as Exhibit 1, which summarizes some reductions of pollutants or contaminants.

The State has not undertaken to measure the reduction of pollutants and contaminants from each of the measures it has taken. To the extent that a reasonable search of the State's documents reveals documents dealing with reduction of pollutants and contaminants in the IRW, those documents will be made available during agency on site productions now scheduled, or to be scheduled in the future, pursuant to Rule 33(d).

INTERROGATORY NO. 7: Please describe the trophic state of each lake or reservoir within the Illinois River Watershed for each season of the year since 1952, and in doing so, state all evidence and identify all documents that relate to any such trophic state, and the cause(s) for any observed eutrophication.

RESPONSE TO INTERROGATORY NO. 7: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further objects to this interrogatory on the grounds that it improperly seeks identification of "every" or "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "every" or "all" items of responsive information to this interrogatory.

Subject to the foregoing objections, any responsive documents will be made available

during agency on site productions now scheduled, or to be scheduled in the future, pursuant to Rule 33(d). Responsive documents to this request include, but are not limited to, Beneficial Use Monitoring Program ("BUMP") reports, clean lake studies, and other scientific reports.

INTERROGATORY NO. 8: Please identify all "federal approved water quality standards" for public and private water supplies that you state the three scenic rivers in the Illinois River Watershed have failed to meet. See Transcript of March 23, 2006 Hearing, P.9.

RESPONSE TO INTERROGATORY NO. 8: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter.

Subject to and without waving the foregoing objections, Appendix A of Oklahoma's Water Quality Standards (OAC 785:45, Appendix A) designates the following Scenic Rivers within the Illinois River basin as having the Public and Private Water Supply beneficial use: Baron Fork from mouth upstream to Highway 59, Upper Illinois River upstream of Barren Fork confluence, and Flint Creek. According to Oklahoma's 2004 303(d) list, which was approved by EPA in October of this year, the Baron Fork violates water quality standards by failing to meet its Public and Private Water Supply, Primary Body Contact Recreation, and Aesthetic beneficial uses. Further, the Baron Fork is listed as impaired due to violation of the Enterococcus, E. coli, and total fecal coliform water quality standards criteria. The Upper Illinois River (segments OK 121700030010 and OK 121700030350) violates water quality standards by failing to meet its Public and Private Water Supply, Primary Body Contact Recreation, Aesthetic, and Cool Water Aquatic Community beneficial uses. Further, the Upper Illinois River is listed as impaired due

to violation of the Enterococcus, E. coli, total fecal coliform, turbidity, and total phosphorus water quality standards criteria. Flint Creek violates water quality standards by failing to meet its Public and Private Water Supply, Primary Body Contact Recreation, and (in segment OK 121700060010) Aesthetic beneficial uses. Further, Flint Creek is listed as impaired due to violating the Enterococcus, E. coli, total fecal coliform, and total phosphorus water quality standards criteria in segment OK 121700060010; and the Enterococcus and nitrate water quality standards criteria in segment OK 121700060080. Finally, because all are designated as "Scenic River" in OAC 785:45, Appendix A, water quality standards are further violated by these streams failing to meet the Antidegradation Requirements found at OAC 785:45-3.

Further responsive information includes, but not limited too, SB 972 Report, BUMP Reports, 2002 and 2004 Integrated Water Quality Assessment Report, and the Safe Drinking Water Information System. Additionally, responsive documents may be found in the business records of the state which will produced at scheduled and/or yet to be scheduled agency productions pursuant to Fed.R.Civ.P. 33(d).

INTERROGATORY NO. 9: State completely and in detail the facts upon which you base the allegations in Your Amended Complaint at ¶ 53 that "[a]t many locations, phosphorus and other hazardous substances, pollutants and contaminants have built up in the soil to such an extent that, even without any additional application of poultry waste to the land, the excess residual phosphorus and other hazardous substances, pollutants and contaminants will continue to run-off and be released into the waters of the IRW in the future" and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 9: The State incorporates its general objections set forth herein, and the State further objects because it improperly uses the defined term "You."

Moreover, to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, based on ODAFF inspector soil test results of poultry operations in the summer and fall of 2002 in several counties of Oklahoma in the scenic river watersheds, and an STP threshold of 120 pounds per acre, it was found that 77% of sites tested exceeded an STP (soil test phosphorus level) of 120, and 33% of samples exceeded an STP of 300. See SB 972 report at p. 12-13. Soil nutrient experts at both Oklahoma State University and the University of Arkansas agree that an STP level greater than 65 to 100 is of no value to crops. SB 972 report at p. 3. Once excessive STP levels are achieved, it takes many years of cropping to remove excess phosphorus, during which time soluble and particulate phosphorus can be washed off the site in surface water or may enter ground water.

Confined poultry operations have tons of phosphorus enriched feed brought onto the farm by defendants. Much of that phosphorus passes through the animals and is excreted in manure. Crops most readily respond to nitrogen, so growers have historically applied enough manure to meet crop nitrogen needs, resulting in applying several times the needed amount of phosphorus. Repeated applications of manure based on nitrogen needs causes phosphorus to accumulate in the soil, causing high soil test phosphorus (STP) levels. For land with high STP levels, appreciable amounts of soluble phosphorus can exist in runoff water and can significantly impact water quality in nearby streams and lakes. High levels of STP can require many years of

continuous crop harvesting for removal, with no additional phosphorus from any source during that time. University of Arkansas Cooperative Extension Service, *Soil Phosphorus Levels: Concerns and Recommendations*, Daniels, et. al. p. 2-3, Exhibit 2 hereto.

Once STP levels become excessive, further applications of phosphorus will increase the potential for phosphorus movement and do not provide any potential agronomic benefits. Forages with a high yield potential can be used to remove phosphorus from high phosphorus fields, but it is a slow process. For instance, cutting and removing a Bermuda grass crop of five tons per acre for thirty years would reduce high STP soils by about 100 points. Oklahoma State University Cooperative Extensions Service, *Managing Phosphorus from Animal Manure*, No. F-2249, Zhang, et al., p 3, Exhibit 3 hereto. In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to Defendants in onsite agency productions.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 10: Provide a detailed description of the subjects of discoverable information held by each of the persons listed on Exhibit A of Your Initial Disclosures.

RESPONSE TO INTERROGATORY NO. 10: The State objects to this interrogatory on the grounds that it is overly broad, oppressive, unduly burdensome and expensive to answer and subverts the purpose of Rule 26(a) disclosures. The Advisory Committee Notes to the 1993 amendments to the F.R.Civ.P. indicate that the purpose of the disclosures in the State's Exhibit A is to disclose the identity of witnesses who, if their potential testimony were known, might

reasonably be expected to be deposed or called as a witness by any other party. The Notes further state that indicating briefly, as the State has already done, the general topics on which such persons have information should not be burdensome, and will assist other parties in deciding which depositions will actually be needed. While providing the disclosures the State has already made is not too burdensome, providing a "detailed description" of the subjects of their discoverable information is unduly burdensome. The defendants may proceed, as the Advisory Committee Notes indicate, by deposition based upon the disclosures already made.

INTERROGATORY NO. 11: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in Count 9 of Your Amended Complaint that any Cargill entity is subject to Oklahoma Administrative Code, 35:17-3-14.

RESPONSE TO INTERROGATORY NO. 11: Cargill's wrongful poultry waste disposal practices, by and through those practices that occurred in Oklahoma, have caused the runoff of poultry waste resulting in a discharge to the surface and ground waters of the IRW within Oklahoma. Each instance of this conduct, to the extent the poultry waste disposal practice occurred on land owned or leased by the owner of a poultry growing operation subject to Oklahoma Concentrated Animal Feeding Operation Act, 2 Okla. Stat. § 9-200, et. seq., constitutes a violation of the Animal Waste Management Plan criteria set forth in the Oklahoma Administrative Code § 35:17-3-14.

As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this

relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response "with particularity" as to each Cargill entity.

However, at the present time, the State does not allege that any Cargill entity is subject to Oklahoma Administrative Code, 35:17-3-14.

INTERROGATORY NO. 12: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in Count 9 of Your Amended Complaint that any Cargill entity violated Oklahoma Administrative Code, 35:17-3-14 and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 12: Cargill's wrongful poultry waste disposal practices, by and through those practices that occurred in Oklahoma, have caused the runoff of poultry waste resulting in a discharge to the surface and ground waters of the IRW within Oklahoma. Each instance of this conduct, to the extent the poultry waste disposal practice occurred on land owned or leased by the owner of a poultry growing operation subject to Oklahoma Concentrated Animal Feeding Operation Act, 2 Okla. Stat. § 9-200, et. seq., constitutes a violation of the Animal Waste Management Plan criteria set forth in the Oklahoma Administrative Code § 35:17-3-14.

As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an

opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response “with particularity” as to each Cargill entity.

However, at the present time, the State does not allege that any Cargill entity is subject to Oklahoma Administrative Code, 35:17-3-14.

INTERROGATORY NO. 13: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶ 142 of Your Amended Complaint that any Cargill entity has “avoided the costs of properly managing and disposing of their poultry waste – not only to their enormous economic benefit and advantage, but also at great cost to the lands and waters compromising the IRW and at the expense of, and in violation of, the State of Oklahoma’s rights” and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 13: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State’s counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The legal basis for this paragraph is set forth in the First Amended Complaint. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

As regards the request for information regarding “each Cargill entity at issue,” the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this

relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response "with particularity" as to each Cargill entity.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, the Poultry Integrator Defendants have, at a minimum, avoided the cost of transporting excess poultry litter to locations where it (1) can safely be applied and (2) will not contribute to discharge or runoff of pollutants into the Oklahoma portion of the waters of the IRW. In addition the Defendants have avoided the cost of proper handling and storage of poultry waste within the IRW. Because the Poultry Integrator Defendants have avoided these costs, the Oklahoma portions of the land and waters of the IRW have become polluted as alleged by the State in this case. The State also refers Cargill to the State's response to Cargill Inc. Interrogatories No. 1-3. In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 14: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶ 35 of Your Amended Complaint that "[t]he contracts establishing the growing arrangements between [any Cargill entity] and [its] poultry growers are presented to the poultry growers with no opportunity to negotiate their essential terms, and constitute contracts of adhesion" and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 14: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response "with particularity" as to each Cargill entity.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, integrated poultry production companies, like the Cargill entities, either raise birds themselves, or under contract arrangements with growers. In those instances in which the integrator contracts with growers, the integrator controls the growing operation, via its contractual relationship and through representatives who make numerous periodic site visits to its respective poultry growers' operations to ensure compliance with its dictates regarding the care and handling of its birds. By its contracts, and grower manuals or other directives, the integrator dictates to the grower, without limitation, the type of buildings, equipment and other facilities to be used in the grower's operation, the feed to

be fed to the birds in the grower's care, any feed supplements to be fed to the birds, the medications and vaccinations to be provided to the birds and the environmental conditions under which the birds are raised. The integrator is intimately involved in and controls each stage of the poultry growing process. Growers have no opportunity to negotiate the essential terms of their contracts, which are thus contracts of adhesion. The State directs Cargill Turkey's attention to Oklahoma Attorney General Opinion, 2001 OK AG 17, which deals with this issue directly. Additionally, the legal basis for this allegation appears in the First Amended Complaint.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 15: Separately for each Cargill entity at issue, state completely and in detail the facts upon which you base the allegation in Your Amended Complaint ¶ 51 that any Cargill entity "has long known that the application of its poultry waste to lands within the IRW, in the amounts that it is applied and with the frequency that it is applied, far exceeds the capacity of the soils and vegetation to absorb those nutrients present in the poultry waste" and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 15: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry

operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response “with particularity” as to each Cargill entity.

In addition, the Court in *City of Tulsa v. Tyson, et al.* 258 F.Supp. 2d, 1253, 1296 (N.D. Okl. 2003) found that, “[a]lthough Poultry Defendants cite other sources of phosphorus in the Watershed, they admit in their response brief that they were aware in the 1990s that “phosphorus presented potential problems to the Watershed” and, therefore, attempted to address the problem by educating their growers regarding better litter management. Given these admissions, the Court finds Poultry Defendants had “reason to recognize that, in the ordinary course of [the growers] doing the work in the usual or prescribed manner, the trespass or nuisance is likely to result.” Cargill was a defendant in the *City of Tulsa* case. In the response brief in question, the *City of Tulsa* defendants, including Cargill, admitted that they became aware of the environmental impact of phosphorus in poultry waste in “approximately the mid-1990s.” Dkt. No. 255, Case No. 4:01-cv-00900-CVE-PJC, attached hereto as Exhibit 4 at ¶ 4, p. 4. No material difference exists between the polluting results of land application of poultry waste in the Eucha-Spavinaw watershed, which was the subject of the *City of Tulsa* case, and that of the IRW. Particularly as regards phosphorus and bacteria, it has long been understood in academic and industry circles that land application of wastes can lead and has led to the environmental harms which are the subject of this suit. See Response to Interrogatory No. 9. In addition, the 1999 Comprehensive Basin Management Plan, at p. 14-15, estimated that, while phosphorus

loading to Lake Tenkiller was approximately equal from point and non-point sources during base flow, annual loading from non-point sources represented 79% of the total phosphorus load to the lake.

In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 16: Separately for each Cargill entity at issue, state completely and in detail the facts upon which you base the allegation in Your Amended Complaint at ¶ 54 that any Cargill entity “arranged for its respective growers to take possession of the poultry waste coming from its birds...with full knowledge that the growers were annually placing hundreds of thousands of tons of their poultry waste directly on the ground and that these actions would lead to the run off and release of phosphorus and other hazardous substances, pollutants and contaminants into the lands and waters of the IRW” and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 16: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State’s counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

As regards the request for information regarding “each Cargill entity at issue,” the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response “with particularity” as to each Cargill entity.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, the Poultry Integrator Defendants have for years raised millions of chickens and turkeys, owned by them, in the IRW and have made little or no provision for removal of the waste generated by their birds from the IRW. Poultry waste necessarily follows from the growing of Defendant’s poultry. Disposal of the waste has been arranged for by leaving the waste with growers who land apply it. Representatives of the Poultry Integrator Defendants are routinely in and around the land application sites, and the Defendants are well informed that land application is taking place.

In addition, the Court in *City of Tulsa v. Tyson, et al.* 258 F.Supp. 2d, 1253, 1296 (N.D. Okl. 2003) found that, “[a]lthough Poultry Defendants cite other sources of phosphorus in the Watershed, they admit in their response brief that they were aware in the 1990s that “phosphorus presented potential problems to the Watershed” and, therefore, attempted to address the problem by educating their growers regarding better litter management. Given these admissions, the Court finds Poultry Defendants had “reason to recognize that, in the ordinary course of [the growers] doing the work in the usual or prescribed manner, the trespass or nuisance is likely to result.”

Cargill was a defendant in the *City of Tulsa* case. No material difference exists between the polluting results of land application of poultry waste in the Eucha-Spavinaw watershed, which was the subject of the *City of Tulsa* case, and that of the IRW. Particularly as regards phosphorus and bacteria, it has long been understood in academic and industry circles that land application of wastes can lead and has led to the environmental harms which are the subject of this suit. In further response to this interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found by a reasonable search within the business records being provided to Defendants in onsite agency productions.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 17: Separately for each Cargill entity at issue, state completely and in detail the facts upon which You base the allegation contained in Count 10 of Your Amended Complaint that any Cargill entity was unjustly enriched by the State of Oklahoma and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 17: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State's counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry

operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response "with particularity" as to each Cargill entity.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, the Poultry Integrator Defendants have owned birds annually generating hundreds of thousands of tons of litter, and, unlike most other industries, unfairly and inequitably have not accepted responsibility for the proper disposal of this waste. Rather than accepting the responsibility, and the cost, of proper waste disposal, the Poultry Integrator Defendants have left the waste from their birds where it falls, with the knowledge that it will be improperly handled and disposed of. This has saved the Poultry Integrator Defendants the cost of proper handling and waste disposal, and has unfairly and inequitably imposed upon Oklahoma the costs and consequences of the Poultry Integrator Defendants' improper handling and waste disposal. Consequently, the State of Oklahoma has conferred a benefit upon the Poultry Integrator Defendants. The State of Oklahoma has not voluntarily conferred the cost savings enjoyed by the Poultry Integrator Defendants. Nevertheless, the Poultry Integrator Defendants have kept the value of their inequitably avoided waste disposal costs, and thus have been unjustly enriched.

Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

INTERROGATORY NO. 18: Separately for each Cargill entity at issue, state completely

and in detail the facts upon which You base the allegation contained in ¶¶ 107, 118, 126 of Your Amended Complaint that “Exemplary and punitive damages should...be awarded” against any Cargill entity and identify every witness upon whom You will rely to establish each fact.

RESPONSE TO INTERROGATORY NO. 18: The State incorporates its general objections set forth herein, and the State further objects to the extent that this interrogatory seeks facts which are protected by attorney client privilege, work product protection, or which have been prepared in anticipation of litigation or trial by the State’s counsel, expert consultants, or agents, which have not yet been identified as testifying experts in this matter. The State further responds that this interrogatory is unduly burdensome and is a premature contention interrogatory.

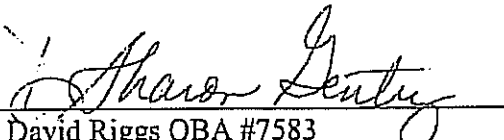
As regards the request for information regarding “each Cargill entity at issue,” the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State requested documents relevant to this relationship on July 10, 2006 and only received them on December 5, 2006, and has not had an opportunity to review and analyze the documents produced. Therefore, it cannot at present state its response “with particularity” as to each Cargill entity.

Subject to and without waiving the foregoing objections, as a general matter, subject to ongoing discovery of the particulars relevant to the Cargill entities, with regard to ¶ 107 and ¶ 118, at a minimum, the improper waste disposal practices of the Poultry Integrator Defendants make a nuisance necessarily follow from the manner of raising poultry heretofore employed by the Defendants, and by their improper waste handling and disposal methods. This conduct amounts to reckless and intentional indifference to the rights and interests of the State of

Oklahoma. The Poultry Integrator Defendants have reason to recognize that, in the ordinary course of doing the work of growing their poultry in the manner heretofore employed, a nuisance is likely to result. The Poultry Integrator Defendants have been aware of the substantial and unnecessary risk of nuisance to the State and that their improper waste disposal practices will cause injury to the State, and did not care that such injury would result. With knowledge that a nuisance would likely result, the Poultry Integrator Defendants have acted unreasonably in the face of the fact that their conduct would cause serious harm to the State of Oklahoma. Similarly, with regard to ¶ 126, at a minimum, the improper waste disposal practices of the Poultry Integrator Defendants make a trespass necessarily follows from the manner of raising poultry heretofore employed by the Defendants, and by their improper waste handling and disposal methods. The Poultry Integrator Defendants have reason to recognize that, in the ordinary course of doing the work of growing their poultry in the manner heretofore employed, a trespass is likely to result. The Poultry Integrator Defendants have been aware of the substantial and unnecessary risk of nuisance to the State and that their improper waste disposal practices will cause injury to the State, and did not care that such injury would result. With knowledge that a nuisance would likely result, the Poultry Integrator Defendants have acted unreasonably in the face of the fact that their conduct would cause serious harm to the State of Oklahoma

Respectfully Submitted,

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VERIFICATION

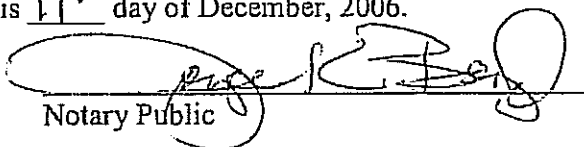
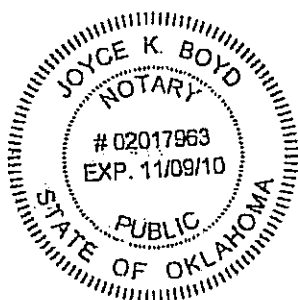
STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Miles Tolbert, being of legal age, hereby depose and state that I have read that foregoing responses to interrogatories and that they are true and correct, to the best of my knowledge and belief, and that I furnish such responses based on consultation with representatives of the State of Oklahoma based on documents identified as of the date of this response.



Miles Tolbert
Secretary of the Environment
State of Oklahoma

Signed and subscribed to before me on this 11th day of December, 2006.


Notary Public

CERTIFICATE OF SERVICE

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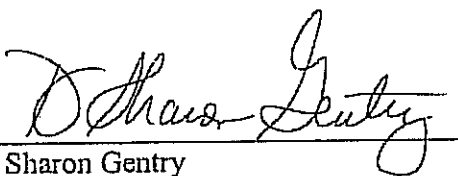
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